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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,922	07/26/2001	Richard G. Keiser	R0558/7001 RFG	8770

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WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

EXAMINER

COBY, FRANTZ

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 04/29/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,922

Applicant(s)

KEISER, RICHARD G.

Examiner

Frantz Coby

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,23,33 and 34 is/are allowed.
- 6) ☒ Claim(s) 13-21 and 24-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2171

This is in response to applicant's amendment filed on February 05, 2004 in which claims 1-12 were canceled and claims 13-34 were added.

Response to Arguments

Applicant's arguments with respect to claims 13-34 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15, 18, 26 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the user's schedule" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the current date and time" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "the user's schedule" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2171

Claim 29 recites the limitation "the current date and time" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al. U.S. Patent no. 6,417,873.

As per claim 13, Fletcher et al. disclose "a method for use in a computer system executing a first software program and processes a file, the computer system further comprising a data set that comprises data that is independent of the file, the method comprising acts of comparing at least one usage characteristics of the file to the data set" by providing a system, methods and computer program products for identifying computer file characteristics that can hinder display via handheld computer devices" (See Fletcher et al. Title; Abstract; Col. 4, line 44-Col. 6, line 51). In particular, Fletcher et al. disclose the claimed limitation of "associating data from the data set with the file"

Art Unit: 2171

by providing means for displaying a directed graph representation of the plurality of hierarchically related files and a selected file (See Fletcher et al. Col. 6, lines 44-51).

As per claim 24, all the limitations of this claim have been noted in the rejection of claim 13. It is therefore rejected as set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-21 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher et al. U.S. patent no. 6,417,873 in view of Porter U.S. Patent no. 6,357,040.

As per claims 14-21, most of the limitations of these claims have been noted in the rejection of claim 13 above.

It is noted, however, although; Fletcher et al. disclose usage characteristics such as size, font, style and language (See Fletcher et al. Col. 5, lines 1-10). Fletcher et al. did not specifically detail the claimed features of "wherein the at least one usage characteristic includes a current date and time when the first software program is processing the file"; "at least one the user's schedule and activities"; "a second software

Art Unit: 2171

program"; "a schedule planning software program" as recited in the instant claims. On the other hand, Porter achieved the aforementioned limitations by providing a usage characteristics based software customization including a scheduler 906 that compares a set of usage characteristics against with a saved set of usage characteristics (See Porter Figures 10-11 and corresponding text).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Fletcher's teachings of identifying file characteristics in a computer system wherein the directed graph presented therein (See Fletcher Figure 2) would have incorporated the scheduler of porter because that would have provided a novel approach to software program that processes files; thus, processing of files would be achieved more efficiently.

As per claims 25-32, all the limitations of these claims have been noted in the rejection of claims 14-21. They are therefore rejected as set forth above.

Allowable Subject Matter

Claims 22-23 and 33-34 are allowable over the prior art of record.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record failed to show the methodology of "associating a searchable label with the file when the at least one characteristic of the file matches at least one characteristic of the schedule; and retrieving the file using the label". This

Art Unit: 2171

claimed limitations being present in claims 22-23 and 33-34 render claims 22-23 and 33-34 allowable over the prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 703 305-4006. The examiner can normally be reached on Maxi-Flex (Monday-Saturday).

Art Unit: 2171

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703 308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Frantz Coby
Primary Examiner
Art Unit 2171

April 26, 2004